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FISCAL IMPACT REPORT

SPONSOR Tsosie **DATE TYPED** 03/18/05 **HB** _____

SHORT TITLE Pro Bono Legal Services Income Tax Deduction **SB** 660/a SJC

ANALYST Padilla-Jackson

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY05	FY06			
(\$100.0)*	(\$200.0)*	Similar	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC) (received for original bill only)

Taxation and Revenue Department (TRD) (received for original bill only)

SUMMARY

Synopsis of SJC Amended Bill

The Senate Judiciary Committee amended Senate bill 660. The amended bill expands eligibility for the income tax deduction to include pro bono legal services rendered in the course of his or her (an attorney's) legal practice, provided that the deduction shall not exceed 10 percent of the adjusted gross income.

Synopsis of Original Bill

Senate Bill 660 creates a new section of the Income Tax Act to provide an income tax deduction to licensed New Mexico attorneys employed by a pro bono legal service organization. Pro bono legal services organization is defined as a nongovernmental, nonprofit entity providing legal representation to New Mexico residents without charging a fee for such representation.

The provisions of this bill would apply to taxable years beginning on or after January 1, 2005.

Significant Issues

According to the AOC, access to justice is a significant problem for low income persons in New Mexico. This proposal may encourage more attorneys to work for pro bono legal services organizations by making it more feasible financially.

FISCAL IMPLICATIONS

*The fiscal impact of the amended bill is unknown. At the time this FIR was written, an analysis on the amended bill from TRD had not been received. Upon the receipt of the TRD analysis, this FIR will be revised if needed.

TRD estimates a total fiscal impact of \$200 thousand in FY06 to the general fund and assumes the impact in FY05 will be 50 percent of the full-year impact. Without information on statewide pro bono legal services numbers and payments, TRD used data from the New Mexico Bar Association. TRD's assumption assumes a total of 4,000 cases annually with compensation totaling approximately \$1,000 per case and an average tax rate of five percent (4,000 cases x \$1,000 per case x 5 percent tax rate equals the \$200,000).

ADMINISTRATIVE IMPLICATIONS

The AOC notes that providing greater access to justice for the poor will help the courts resolve cases more timely. Attorneys or better prepared litigants representing themselves use less court time, need fewer hearings, and resolve cases more quickly.

TRD anticipates the administrative impact to be minor.

TECHNICAL ISSUES

TRD raised the following issues:

- Little guidance provided regarding how to deal with part-time employees and contract work;
- There may need to be some special language for audits, due to attorney client privilege issues; and
- It might be advisable to modify the bill to accommodate organizations that take token payments from clients.

OPJ/yr